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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/622,510	10/19/2000	Rachel J. Painter	99.28	8462
23487	7590	05/18/2006		
THE ESTEE LAUDER COS, INC 125 PINELAWN ROAD MELVILLE, NY 11747				
			EXAMINER GEORGE, KONATA M	
			ART UNIT 1616	PAPER NUMBER

DATE MAILED: 05/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/622,510

Applicant(s)

PAINTER ET AL.

Examiner

Konata M. George

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-13,21-24 and 26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-5,21-24 and 26 is/are allowed.
- 6) ☒ Claim(s) 6 is/are rejected.
- 7) ☒ Claim(s) 7-13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 3-13, 21-24 and 26 are pending in this application.

Action Summary

1. The rejection of claims 3-5, 21-24 and 26 under 35 U.S.C. 102(b) as being anticipated by Buchalter is hereby withdrawn.
2. The rejection of claims 6-13 under 35 U.S.C. 102(b) as being anticipated by Buchalter is being maintained for the reasons stated in the previous office action.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 6 is rejected under 35 U.S.C. 102(b) as being anticipated by Buchalter (USP 3,896,807).

Buchalter discloses articles such as a glove for topical use, in which the article is impregnated with an oil phase of a cream formulation (abstract). Column 3, lines 13-18 and 27-29 describe the different types of articles that can be employed in the invention. The composition of the article comprises an oil phase, that when combined with water forms a cream that is impregnated into the article. Column 5, lines 34-44 teach

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additional ingredients that may be incorporated into the composition i.e. stiffening agent. Column 2, lines 44-50 teach that dyes may be incorporated into the composition. It is the position of the examiner that when the composition is combined with the water then the composition would have a low-viscosity.

Response to Arguments

4. Applicants have rewritten the claims objected to, into independent form as suggested by the examiner in order to place them into a condition for allowance. The examiner reviewed the cited prior art and determined that claim 6 should remain rejected. As stated in the rejection the composition of the article "comprises an oil phase, that when combined with water forms a cream that is impregnated into the article". Column 5, lines 39-45 teach that the oil phase can contain stabilizers to enhance shelf life such as non-ionic surfactants, cellulose derivatives, protein and lecithin. As such the cited prior art reads on claim 6. Claims 7-13 will remain objected to for depending upon a rejected base claim.

Conclusion

5. Claim 6 stand rejected.
6. Claims 7-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
7. Claims 3-5, 21-24 and 26 are allowed.

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Telephone Inquiries

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Konata M. George, whose telephone number is 571-272-0613. The examiner can normally be reached from 8AM to 6:30PM Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter, can be reached at 571-272-0646. The fax phone numbers for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have question on access to the Private Pair system, contact the Electronic Business Center (EBC) as 866-217-9197 (toll-free).

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